

Senate Study Bill 3026 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

A BILL FOR

1 An Act relating to paternity in certain actions before the
2 juvenile court.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.2, subsection 39, Code 2022, is
2 amended to read as follows:

3 39. "*Parent*" means a biological or adoptive mother or father
4 of a child; or a father whose paternity has been established
5 by operation of law due to the individual's marriage to the
6 mother at the time of conception, birth, or at any time during
7 the period between conception and birth of the child, by order
8 of a court of competent jurisdiction, or by administrative
9 order when authorized by state law. "*Parent*" does not include a
10 mother or father whose parental rights have been terminated or
11 a father whose paternity has been overcome pursuant to section
12 232.3A or 600B.41A.

13 Sec. 2. NEW SECTION. 232.3A Authority relating to action
14 to overcome paternity in a child in need of assistance or
15 termination of parental rights proceeding.

16 1. During an action under subchapter III, child in need
17 of assistance proceedings, or subchapter IV, termination of
18 parent-child relationship proceedings of this chapter, the
19 court may on its own motion or that of any party, require the
20 child and established father of the child to submit to blood or
21 genetic testing in accordance with the procedures and method
22 prescribed under section 600B.41 to overcome the paternity of
23 the established father.

24 2. The juvenile court may enter an order overcoming
25 paternity of an established father pursuant to section 600B.41A
26 if all of the following conditions are met:

27 a. The child has been adjudicated a child in need of
28 assistance in an active juvenile court case and a dispositional
29 order in that case is in place.

30 b. Paternity of the child has been legally established,
31 including by operation of law due to the individual's marriage
32 to the mother at the time of conception, birth, or at any time
33 during the period between conception and the birth of the
34 child, by order of a court of competent jurisdiction, or by
35 administrative order when authorized by state law.

1 *c.* Pursuant to section 600B.41, the conclusion of the
2 expert as disclosed by the evidence based upon blood or genetic
3 testing demonstrates that the established father is not the
4 biological father of the child.

5 *d.* The established father agrees that the established
6 father's paternity should be overcome or the established father
7 objects to having his paternity overcome but the court finds
8 that it is in the best interest of the child to overcome the
9 established father's paternity.

10 3. When the criteria specified in subsection 2 are met, the
11 juvenile court shall enter an order overcoming paternity, and
12 shall send a copy of the order to the clerk of the district
13 court. The juvenile court shall designate the petitioner and
14 respondent for the purposes of the order.

15 4. Upon receipt of the order by the district court, the
16 clerk of the district court shall docket the case. Filing
17 fees and other court costs shall not be assessed against the
18 parties.

19 5. The district court shall take judicial notice of the
20 juvenile file in any hearing related to the case. Records
21 contained in the district court case file that were copied or
22 transferred from the juvenile court file concerning the case
23 shall be subject to section 232.147 and other confidentiality
24 provisions of this chapter for cases not involving juvenile
25 delinquency, and shall be disclosed, upon request, to the child
26 support recovery unit without a court order.

27 6. If paternity testing is completed and the established
28 father is not excluded as the biological father of the child,
29 the juvenile court shall find the established father to be the
30 biological father of the child and a necessary party to the
31 action.

32 7. Nothing in this section shall be construed to require
33 appointment of counsel for the parties in the district court
34 action.

35 Sec. 3. Section 600B.41A, Code 2022, is amended by adding

1 the following new subsection:

2 NEW SUBSECTION. 3A. Establishment of paternity may be
3 overcome under this section by a juvenile court pursuant to
4 section 232.3A if all of the following conditions are met:

5 a. Paternity of a child is contested during an active
6 child in need of assistance proceeding and the child is under
7 the jurisdiction of the juvenile court at the time an order
8 overcoming paternity is entered.

9 b. A guardian ad litem is appointed for the child.

10 c. Notice of the action to overcome paternity is served on
11 any parent of the child in accordance with chapter 232 and if
12 enforcement services are being provided by the child support
13 recovery unit pursuant to chapter 252B, notice shall also be
14 served on the child support recovery unit.

15 d. Blood or genetic testing is conducted in accordance with
16 sections 232.3A and 600B.41.

17 (1) Unless otherwise specified pursuant to subsection 2 or
18 9, blood or genetic testing shall be conducted in an action to
19 overcome the establishment of paternity in the child in need of
20 assistance proceeding.

21 (2) Unless otherwise specified in this section, section
22 600B.41 applies to blood or genetic testing conducted as the
23 result of an action brought to overcome paternity.

24 (3) The juvenile court may order additional testing to
25 be conducted by the expert or an independent expert in order
26 to confirm a test upon which an expert concludes that the
27 established father is not the biological father of the child.

28 e. The juvenile court finds all of the following, as
29 applicable:

30 (1) That the conclusion of the expert as disclosed by the
31 evidence based upon blood or genetic testing demonstrates that
32 the established father is not the biological father of the
33 child.

34 (2) If paternity was established pursuant to section
35 252A.3A, the signed affidavit was based on fraud, duress, or

1 material mistake of fact.

2 (3) The established father agrees that his paternity should
3 be overcome or the juvenile court finds it is in the best
4 interest of the child that the established father's paternity
5 be overcome despite the established father's objection.

6 Sec. 4. Section 600B.41A, subsection 4, unnumbered
7 paragraph 1, Code 2022, is amended to read as follows:

8 If the court finds that the establishment of paternity is
9 overcome, in accordance with all of the conditions prescribed
10 under subsection 3 or 3A, the court shall enter an order which
11 provides all of the following:

12 Sec. 5. Section 602.6306, subsection 2, Code 2022, is
13 amended to read as follows:

14 2. District associate judges also have jurisdiction
15 in civil actions for money judgment where the amount in
16 controversy does not exceed ten thousand dollars; jurisdiction
17 over involuntary commitment, treatment, or hospitalization
18 proceedings under [chapters 125](#) and [229](#); jurisdiction of
19 indictable misdemeanors, class "D" felony violations, and
20 other felony arraignments; jurisdiction to enter a temporary
21 or emergency order of protection under [chapter 235F](#) or [236](#),
22 and to make court appointments and set hearings in criminal
23 matters; jurisdiction to enter orders in probate which do not
24 require notice and hearing and to set hearings in actions under
25 chapter 633 or [633A](#); and the jurisdiction provided in section
26 [232.3A](#), [600.41A](#), or [602.7101](#) when designated as a judge of the
27 juvenile court. While presiding in these subject matters a
28 district associate judge shall employ district judges' practice
29 and procedure.

30 EXPLANATION

31 The inclusion of this explanation does not constitute agreement with
32 the explanation's substance by the members of the general assembly.

33 This bill relates to actions to overcome paternity during
34 a child in need of assistance proceeding or a termination
35 of parental rights proceeding, and the jurisdiction of the

1 juvenile court to initiate an action to overcome paternity.

2 The bill provides that for the purposes of Code chapter 232
3 (juvenile justice), "parent" does not include a father whose
4 paternity has been overcome.

5 The bill provides authority for the juvenile court during a
6 child in need of assistance (CINA) proceeding or termination of
7 parent-child relationship proceeding under Code chapter 232,
8 on its own motion or that of any party, to require the child
9 and established father to submit to blood or genetic testing,
10 to challenge the paternity of the child. The juvenile court
11 may enter an order overcoming paternity of an established
12 father if: the child has been adjudicated a CINA in an active
13 juvenile court case and a dispositional order in that case is
14 in place; paternity of the child has been legally established;
15 the conclusion of the expert as disclosed by the evidence based
16 upon blood or genetic testing demonstrates that the established
17 father is not the biological father of the child; and the
18 established father agrees that his paternity should be overcome
19 or the established father objects to having his paternity
20 overcome but the court finds that it is in the best interest
21 of the child to overcome his paternity. The bill provides
22 that when the criteria for overcoming paternity are met, the
23 juvenile court shall enter an order overcoming paternity, and
24 shall send a copy of the order to the clerk of the district
25 court. The juvenile court shall designate the petitioner and
26 respondent for the purposes of the order. Upon receipt of the
27 order by the district court, the clerk of the district court
28 shall docket the case. Filing fees and other court costs shall
29 not be assessed against the parties.

30 The district court shall take judicial notice of the
31 juvenile file in any hearing related to the case. Records
32 contained in the district court case file that were copied or
33 transferred from the juvenile court file concerning the case
34 are subject to the confidentiality provisions of Code chapter
35 232 for cases not involving juvenile delinquency, and shall be

1 disclosed, upon request, to the child support recovery unit
2 without a court order.

3 If paternity testing is completed and the established father
4 is not excluded as the biological father of the child, the
5 court shall find the established father to be the biological
6 father of the child and a necessary party to the action. The
7 provisions of the bill are not to be construed to require
8 appointment of counsel for the parties in the district court
9 action.

10 The bill also establishes the criteria under Code section
11 600B.41A (actions to overcome paternity — applicability —
12 conditions) specific to an action under the jurisdiction of
13 the juvenile court to overcome paternity in a child in need of
14 assistance proceeding.

15 The bill makes conforming changes in the Code including
16 under Code section 602.6306 (jurisdiction, procedure, appeals)
17 relating to the jurisdiction of district associate judges when
18 designated as a judge of the juvenile court, to include the
19 overcoming of paternity proceedings created in the bill.